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**Delaware Department of Justice's Public Statement Regarding the Conclusion of the
Department's Investigation of the Delaware Psychiatric Center**

Delaware Attorney General Joseph R. Biden, III, announced today that the Delaware Department of Justice (DDOJ) has concluded its ten-month investigation of allegations of patient abuse at the Delaware Psychiatric Center ("DPC"). The DDOJ investigation concluded that there were systemic violations of Delaware's *Mental Health Patients' Bill of Rights*, 16 Del. C. §§ 5161 & 5162. Such violations included, but were not limited to, DPC's failure (1) to prevent physical and emotional abuse of patients by employees and other patients; (2) to prevent mistreatment of patients through inappropriate use of medications, isolation, and physical and chemical restraints; (3) to prevent neglect of patients through lack of attention to their physical needs including safety concerns; (4) to prevent the use of unjustifiable force against patients; (5) to provide to each DPC patient care and treatment suited to the patient's needs, skillfully, safely and humanely administered with full respect for the patient's dignity and personal integrity in a setting and under conditions that restrict the patient's personal liberty only to the extent required by the patient's treatment needs, applicable law and judicial orders; and (6) to provide each patient with an outcome-oriented, individualized, written treatment plan, treatment based on such plan, periodic review or revision of the plan consistent with treatment progress, and a description of treatment and other support services needed upon discharge.

As a result of this investigation, the DDOJ prosecuted and convicted two members of the DPC staff: Woods Etherington and Anthony Liggians.

In addition to holding staff criminally liable and in order to remedy the systemic violations of the *Mental Health Patients' Bill of Rights*, the DDOJ and the Delaware Department of Health and Human Services ("DHSS") have entered into a legally binding "Memorandum of Agreement Between the Delaware Psychiatric Center and the Delaware Department of Justice to Ensure Enforcement of and Compliance with the *Mental Health Patients' Bill of Rights* at the Delaware Psychiatric Center" ("Memorandum of Agreement"). The Memorandum of Agreement contains a comprehensive plan of action listing the necessary corrective measures and accomplishment dates that the DPC must meet in order to fully comply with the Delaware *Mental Health Patients' Bill of Rights*.

These measures include but are not limited to: (1) submission of a protocol and set of procedures governing the use of its currently deployed system of video-monitoring throughout DPC patient areas as a management and prevention tool for the purpose of ensuring patient safety and

quality of care; (2) identification of the categories and definitions of incidents to be reported and investigated; immediate reporting by staff to supervisory personnel, DPC's director, and State officials of serious incidents; and the prompt reporting by staff of all other unusual incidents, using standardized reporting across all settings; (3) mechanisms to ensure that, when serious credible allegations of abuse, neglect, and/or serious injury occur, staff take immediate and appropriate action to protect the individuals involved, including removing alleged perpetrators from direct contact with individuals pending the investigation's outcome; (4) adequate training for all staff on recognizing and reporting incidents; (5) notification of all staff when commencing employment and adequate training thereafter of their obligation to report incidents to DPC and State officials; (6) posting in each patient care unit a brief and easily understood statement of how to report incidents; (7) procedures for referring incidents, as appropriate, to law enforcement; (8) mechanisms to ensure that any staff person, individual, family member, or visitor who, in good faith, reports an allegation of abuse or neglects is not subject to retaliatory action by DPC and/or the State, including but not limited to reprimands, discipline, harassment, threats, or censure, except for appropriate counseling, reprimands, or discipline because of an employee's failure to report an incident in an appropriate or timely manner; and (9) mandatory investigation of the criminal history and other relevant background factors of all staff, whether full-time or part-time, temporary or permanent, or a person who volunteers on a regular basis and performance of drug testing of any person engaged in direct patient care.

The parties have agreed that an independent "Compliance Chair," the Honorable Vincent A. Bifferato, Sr., former Resident Judge of the Superior Court of the State of Delaware, will determine DPC's compliance with the Memorandum of Agreement. If Judge Bifferato determines that the DPC has failed to comply with the Memorandum of Agreement, the DDOJ will move to enforce the *Mental Health Patients' Bill of Rights* in the Court of Chancery for the State of Delaware.

DPC administrators fully cooperated with the DDOJ investigation. Moreover, DPC has taken positive steps, such as reducing staff vacancies and hiring a new director, to improve conditions at the facility. Indeed, absolutely no evidence was discovered that DHSS and/or DPC destroyed or shredded any documents relevant to the investigation or the protection of patient rights.

All parties agree that violations of the *Mental Health Patients' Bill of Rights* must immediately and permanently cease. DPC administration and staff must create and enforce an environment that does not tolerate abuse, mistreatment or neglect of any patient and which provides and fosters a safe and humane hospital setting where the highest quality of therapeutic treatment is available to all patients.

DPC's decision to enter into this Memorandum of Agreement with the DOJ demonstrates that DPC has committed to ensuring its patients the care and treatment they are entitled to under the law. It also allows us to begin to cure the problems at DPC now rather than engage in a lengthy litigation process.

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